



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

DAVID SCOTT MOONEY, §
Plaintiff, §
§
vs. § Civil Action No. 2:18-03319-MGL-MGB
§
§
KERSHAW C.I. MEDICAL STAFF, NURSE §
YOUNG, NURSE COPELAND, NURSE §
DRUM, NURSE HOPKINS, NURSE LEE §
ASSOCIATE WARDEN FORD, ASSOCIATE §
WARDEN CANNON, NURSE §
PRACTITIONER BLAKELY, and NURSE §
USSERY §
Defendants. §
§

ORDER ADOPTING THE REPORT AND RECOMMENDATION

This action arises under 42 U.S.C. § 1983. Plaintiff David Scott Mooney (Mooney) is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge recommending this Court dismiss without prejudice claims against Defendants Nurse Lee (Lee), Nurse Young (Young), and Associate Warden Cannon (Cannon) for lack of prosecution, under Rule 4(m) of the Federal Rules of Civil Procedure. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the

Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on July 16, 2019, but Mooney failed to file any objection to the Report. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court Lee, Young, and Cannon are **DISMISSED WITHOUT PREJUDICE** from the case for lack of prosecution.

IT IS SO ORDERED.

Signed this 17th day of October 2019 in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.